

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

VS.

VICTOR SMITH,

Defendant.

8:06CR163

ORDER

Defendant Victor Smith (Smith) appeared before the court on September 27, 2011, on the Petition for Warrant or Summons for Offender Under Supervision (Petition) (Filing No. 34). Smith was represented by Assistant Federal Public Defender Karen M. Shanahan and the United States was represented by Assistant U.S. Attorney Douglas R. Semisch. Through his counsel, Smith waived his right to a probable cause hearing on the Petition pursuant to Fed. R. Crim. P. 32.1(a)(1). I find that the Petition alleges probable cause and that Smith should be held to answer for a final dispositional hearing before Senior Judge Lyle E. Strom.

The government moved for detention. Smith declined to present any evidence or request a detention hearing but proffered he could be released under electronic monitoring. Since it is Smith's burden under 18 U.S.C. § 3143 to establish by clear and convincing evidence that he is neither a flight risk nor a danger to the community, the court finds Smith has failed to carry his burden and that Smith should be detained pending a dispositional hearing before Senior Judge Strom.

IT IS ORDERED:

1. A final dispositional hearing will be held before Senior Judge Lyle E. Strom in Courtroom No. 5, Third Floor, Roman L. Hruska U.S. Courthouse, 111 South 18th Plaza, Omaha, Nebraska, **at 10:00 a.m. on December 15, 2011**. Defendant must be present in person.
2. Defendant Victor Smith is committed to the custody of the Attorney General or his designated representative for confinement in a correctional facility;
3. Defendant shall be afforded a reasonable opportunity for private consultation with defense counsel; and
4. Upon order of a United States court or upon request of an attorney for the government, the person in charge of the corrections facility shall deliver defendant to the United States Marshal for the purpose of an appearance in connection with a court proceeding.

DATED this 27th day of September, 2011.

BY THE COURT:

s/Thomas D. Thalken
United States Magistrate Judge